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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Third periodic report due in 1996

Addendum

HUNGARY*

[21 April 1998]

CONTENTS

		Paragraph	Page
I.	GENERAL OBSERVATIONS	1 - 20	2
II.	INFORMATION RELATING TO EACH OF THE ARTICLES IN PART I OF THE CONVENTION	21 - 63	6
III.	STATISTICS	64 - 67	13
List of annexes			14

* For the initial report of Hungary, see CAT/C/5/Add.9; for its consideration, see CAT/C/SR.34 and 35 and Official Records of the General Assembly, forty-fifth session, Supplement No. 44 (A/45/44, paras. 280-312). For the second periodic report, see CAT/C/17/Add.8; for its consideration, see CAT/C/SR.141, 142/Add.2 and 145/Add.2 and Official Records of the General Assembly, forty-eighth session, Supplement No. 44 (A/48/44, paras. 342-364).

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I. GENERAL OBSERVATIONS

1. The present report is submitted in pursuance of article 19, paragraph 1, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The report has been worked out in conformity with the general guidelines regarding the form and contents of reports to be submitted by States parties of the Convention (CAT/C/14). Due regard has also been taken of all the statements made during the consideration of Hungary's second periodic report in the Committee against Torture (CAT/C/SR.141, 142/Add.2 and 145/Add.2).

2. The Convention was promulgated in Hungary by Law-Decree No. 3 of 1988, as modified by Law No. LIX of 1990. Its provisions are to be applied as from 26 June 1987. As the Convention has been fully integrated into the Hungarian legal system, the provisions of the Convention have the legal status of a sui generis law and consequently are directly enforceable. Accordingly, any person may directly invoke the Convention before the Hungarian courts and administrative authorities. In cases where the Convention contains provisions for the jurisdiction of the courts, as well as penalties for persons who are guilty of practising torture and other cruel, inhuman or degrading treatment or punishment, the implementation of the Convention is within the normal competence of the courts. Both the courts and the administrative authorities (i.e., the police) are directly responsible for the implementation of the Convention.

3. Hungary has fully recognized the competence of the Human Rights Committee, the Committee on the Elimination of Racial Discrimination as well as the Committee against Torture to receive and consider individual communications and is ready to cooperate with the competent treaty bodies. Hungary has also recognized and attaches special importance to the competence of the Committee against Torture under articles 20, 21 and 22 of the Convention.

4. Regarding the general description of Hungarian society, as well as the political and legal system of Hungary, reference is made to core document HRI/CORE/1/Add.11.

5. The previous report of Hungary illustrated the profound changes of Hungarian society, as well as the coming into existence of the institutions of a pluralist society, a functioning democracy and the rule of law in Hungary. The present report has the basic intention to show, on the one hand, what kind of further new legal institutions have been established for strengthening democratic achievements and, on the other, to give an objective, global survey of the everyday working practices, methods and concrete results of all relevant Hungarian authorities who have the task to prevent torture and other cruel, inhuman or degrading treatment or punishment.

6. As the previous report of Hungary (CAT/C/17/Add.8, para. 3) stressed, the establishment of the Constitutional Court was a cornerstone in introducing the rule of law in Hungary. Similarly, the new regulations for the creation of an Ombudsman system represent a further strengthening of Hungary's legal environment.

7. During the examination of Hungary's second periodic report (CAT/C/SR.142/Add.2, paras. 14-15), information was given regarding the preparatory works for the Ombudsman bill. Presently, the Act is in force and the Hungarian Ombudsman institution is a fully operational system (see the relevant report of the Hungarian Ombudsman for 1995-1996 in annex 1). It is noted that in working out the basic law institutions of the Ombudsman, the Council of Europe carried out substantial professional cooperation to set up and put into practice the Hungarian Ombudsman system.

8. The legal basis was given by the Hungarian Constitution as amended, chapter V, on the two categories of the parliamentary Ombudsman in Hungary, i.e. one for the protection of human rights and the other for the protection of national and ethnic minorities' rights. The duty of the Ombudsman for human rights is to investigate any allegation of abuse of constitutional rights, especially those guaranteed by chapter XII, articles 54-70, on fundamental rights of the Hungarian Constitution (see annex 2). Special attention has to be given to article 54, paragraphs 1 and 2, of the Constitution, according to which everyone has the inherent right to life and to human dignity, and no one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment.

9. The respect for the rule of law is one of the most important responsibilities of the Hungarian Ombudsman. The concept includes also the full security of the individuals in Hungary. According to Act No. LIX of 1993 on the Ombudsman (Parliamentary Commissioner) for human rights, article 16, paragraph 1 (see annex 3), anybody may apply to the Ombudsman if in his/her judgement he/she suffered injury as a consequence of the proceedings of any authority or of any organ performing public service.

10. The office of the Ombudsman in Hungary was set up on 1 July 1995; however, the actual activity started only in October 1995. In the interpretation of legal security and the rule of law, the work of the Ombudsman is extremely important, not only from a merely theoretical point of view but also from a practical one, since in the first years of practice (1995-1996) in an average of 32.52 per cent of the cases put forward, the Ombudsman found constitutional improperties. In more than one third of the cases, concluded by a decision expressing disapproval, it was found that the right to legal security and also the rule of law had been violated. (Relevant statistical data are reflected in detail in Part III of the report.)

11. The Ombudsman for national and ethnic minority rights performs similar functions in the field of the guarantees given, particularly by Act No. LXXVII of 1993 on the rights of national and ethnic minorities. The National Assembly of Hungary adopted a solemn declaration in the preamble of this Act, according to which it considers the right to national and ethnic identity as a part of universal human rights. Other important Acts are also in effect in connection with the guarantees of minorities' rights, including Act No. LXV of 1990 on local self-governments, Act No. LXXIX of 1993 on public education, as well as Act No. I of 1996 on radio and television (the Media Act). The Hungarian Ombudsman for national and ethnic minority rights has initiated an amendment for Act No. LXV of 1990 and as a consequence of it, minorities in Hungary are entitled to establish their own self-government (see the report of the Ombudsman for national and ethnic minorities in annex 4).

12. With the intention of having more remedies in this field, the Hungarian Government acceded to two relevant legal instruments of the Council of Europe in 1995:

The European Charter for Regional or Minority Languages; and

The Framework Convention for the Protection of National Minorities.

13. The Hungarian Government also deposited the instrument of ratification of Hungary to the Second Optional Protocol to the International Covenant on Civil and Political Rights (see the second periodic report of Hungary, paragraph 8).

14. During the reporting period, Hungary acceded also to the following international human rights conventions, adopted by the Council of Europe:

The European Convention for the Protection of Human Rights and Fundamental Freedoms and all of its 11 Protocols (e.g. Protocol No. 11 for the Restructuring of the Control Mechanism, established by the Convention);

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocols No. 1 and 2;

The European Convention on Extradition and its Protocols No. 1 and 2;

The European Convention on Mutual Assistance in Criminal Matters;

The European Agreement Relating to Persons Participating in Proceedings of the European Commission and the Court of Human Rights;

The European Convention on the Suppression of Terrorism;

The European Convention on the Transfer of Sentenced Persons.

15. After ratification of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (4 November 1993), the European Committee for the Prevention of Torture (CPT) carried out a visit to Hungary (1-14 November 1994). It is noted that the final report of the CPT (adopted on 14 June 1995) on its visit to Hungary widely recognizes the adherence of the Hungarian legislation as well as the conditions of prisons and police stations to the existing international norms and standards.

16. Nevertheless, the CPT requested a number of pieces of information from Hungarian authorities on some specific aspects and made a series of recommendations. The complete CPT report, as well as the follow-up measures carried out by the Hungarian authorities have been fully published (see annex 5). The CPT report underlines that during the two-week visit, the talks with the Hungarian authorities took place in a spirit of close cooperation. Fruitful, high-level professional discussions were held with the widest range of competent authorities, i.e, the Ministry of the Interior, the Ministry of Justice, the Ministry of Defence, the Ministry of Welfare and the General Public Prosecutor's Office. It was also emphasized that the CPT delegation

received a satisfactory response from the management and staff of all places of detention visited, including those which had not been notified in advance of the fact-finding visits.

17. The CPT delegation heard no allegations of torture of persons held by the police establishments and no other evidence of torture was found (see CPT report, paragraph 16, page 18). The delegation of the Council of Europe, however, did register several allegations of physical ill-treatment, inflicted by the police on detained persons, both at the time of the arrest and during the subsequent interrogations. In the report, CPT recommended that police officers be reminded of these observations as well as that senior police officers deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable by domestic law and by internationally binding obligations. At the same time, CPT fully recognized that the arrest of a suspected criminal may often be a hazardous task, in particular if the person concerned resists or is someone the officers concerned have good reason to believe, may be armed and dangerous.

18. CPT also recommended that high priority be given to education initiatives and professional training of prison staff of all grades (for the practical follow-up measures of the competent Hungarian authorities, see comments made to article 10 of the Convention, paragraphs 31-37). CPT also invited the Hungarian party to encourage all public prosecutors and supervisory judges regularly to visit and supervise the places of detention within their competence. As an illustrative, concrete consequence of the CPT recommendations, it should be noted that the Chief Public Prosecutor of Hungary, within a very short period of time, issued a disciplinary circular, according to which the above-mentioned monitoring and controls are to be carried out every month (see comments made regarding article 11, in paragraph 49).

19. In its written response to the CPT report, the Government of Hungary pointed out that a significant part of the conditions (overcrowded prisons, hygienic problems, etc.) is due to the obsolete institutional framework from the turn of the century, the low-level infrastructure and the limited development resources. Solving all these problems and improving material conditions can only be gradually realized, in proportion with the economic capabilities of the country as well as of the State budget.

20. During the reporting period, Hungary worked out and put into force a wide range of new legal rules, covering a wide range of the activities of the legislative, administrative, judicial and other (i.e., prosecution, Ombudsman) institutions, having tasks in and responsibilities for the elimination of torture and other ill-treatment forbidden by the Convention. A simple analysis of these acts shows that the Hungarian authorities paid most careful attention to the fact-finding observations and recommendations of both the Committee against Torture and the Council of Europe human rights bodies. The detailed list of the relevant new Hungarian legal regulations is enumerated in the comments made to article 2 of the Convention (paragraphs 12-17 of the report).

II. INFORMATION RELATING TO EACH OF THE ARTICLES IN PART I OF THE CONVENTION

Article 1

21. The Convention is a directly enforceable legal instrument in Hungary, consequently its provisions, including the definition of torture of this article may be invoked by anybody and therefore, the Hungarian courts, as well as other authorities (Ombudsman, public prosecutor, police) have a directly binding legal obligation to apply it in their day-to-day practice.

Article 2

22. References were made in Hungary's second periodic report (paras. 20-26) to comprehensive human rights legislative reform, then still under preparation, restructuring the whole system of investigations and enforcement. At the present time, the new institutional system has already been put into force and is effectively in practice.

23. In accordance with the provisions of the Constitution, chapter XII, article 54, in the Republic of Hungary everyone has the inherent right to life and human dignity. No one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment. A further guarantee is provided by Act No. LIX of 1997 (on the amendment of the Constitution). The entire execution of the criminal punishment system as well as other relevant measures have been placed under the supervision and control of the Public Prosecutor. The Office of the Public Prosecutor carries out investigations and supervises the legality of all police investigations, as well as represents the prosecution in court proceedings (see Constitution, article 51, paragraph 2).

24. In compliance with Hungary's international obligations, the following new legal provisions have been worked out with the intention of creating effective guarantees for and widening of the rights of the convicts, as well as persons under criminal investigation:

Act No. XVII of 1993 on the modification of the Criminal Code;
Act No. IV of 1978 (annex 6);

Act No. XCII of 1994 on criminal procedure;

Act No. LXVI of 1994 on the structural system of the courts;

Act No. XXXII of 1993 (as amending Law-Decree No. 11 of 1979) on the execution of criminal punishments and other criminal measures (see references in Hungary's second report, paragraphs 20-21), (annex 7);

Act No. CVII of 1995 on the structure of the prison administration;

Act No. XXXIV of 1994 on the police;

Decree of the Minister of Interior No. 3/1995 (III.1) on service requirements for the police staff;

Decree of the Minister of Interior No. 19/1995 (XII.13) on regulations for the functioning of the detention facilities of the police;

Decrees of the Minister of Justice, regulating in detail the specific performance questions in the field of the execution of criminal punishments:

- No. 6/1996 (VII.12) regarding technical details for the implementation of Act No. XXXII of 1993 (as cited above),

- No. 11/1996 (VIII.17) on disciplinary issues of detainees,

- No. 13/1996 (IX.8) on adequate redress and full compensation for detainees (see also at article 14 of the Convention, paragraph 41),

- Act No. XLIII of 1996 on service requirements of the professional staff of the armed forces, as well as Decrees of the Minister of Justice for carrying out special personnel and service requirements for the staff of law enforcement institutions, No. 4/1997 (II.12) and 17/1997 (V.9).

25. Among the wide range of human rights guarantees, special attention is called to the following provisions of Act No. XXXII of 1993 on the execution of punishments and measures: According to article 2, paragraph 1, only the legal consequences as defined in the judgement as well as in the law may be applied against the convict. Furthermore, the convict is entitled to the protection of his rights, particularly of his/her good reputation, privacy, personal data and to the inviolability of his/her private home (para. 2). No discrimination shall affect the convicts for reasons of their national and ethnic status, religious or political belief, social origin or sex (para. 3). The convict is entitled to full legal remedy during the execution of the punishment (para. 4).

26. In compliance with the Convention, article 21, paragraph 1 of this Act stipulates that the convict must be treated with respect for human dignity and cannot be subjected to torture or to other cruel, inhuman or degrading treatment. The same obligation is in effect for police personnel through the Act on the Police, article 16, paragraphs 1, 2, and 3.

27. Decree of the Minister of the interior No. 19/1995 (XII.13) on detention facilities of the police guarantees that the detainee has the right to establish direct contact without any restrictions with the Human Rights Committee of the United Nations, the Council of Europe (European Committee on Human Rights and the Tribunal), the members of the Committee against Torture, the European Committee for the Prevention of Torture as well as with the members of all other human rights organizations and with the Ombudsman. This Decree of the Minister of Interior also regulates adequately the rights of detainees regarding regular information given by the police on their right to defence, legal remedies, health care, accommodation and personal data protection.

28. During the consideration of Hungary's second periodic report (CAT/C/SR.141, para. 66) special reference was made to the "very light maximum sentence provided for torture" by Hungarian law. In the meantime, Hungary amended article 228 of the Criminal Code and the previous maximum of three years' imprisonment was extended to eight years.

29. A further guarantee is given by Act No. CVII of 1995, according to which all complaints of detainees against the police shall be dealt with by a fully independent public prosecutor and legal recourse is also provided for appeal to the court.

30. Article 122 of the Hungarian Criminal Code, having direct relevance to the police and law enforcement officers, makes it possible to refuse to obey an order for committing a prohibited offence. Article 123 of the Criminal Code states that a soldier/policeman is not punishable for carrying out an order, unless he was aware that by doing so he would be committing an offence. Article 16, paragraph 3 of the Act on the Police provides that the policeman shall not carry out torture, cruel, inhuman or degrading treatment and he is obliged to refuse to obey such an order of a superior officer. Furthermore, he is obliged to initiate a legal procedure aimed at eliminating this act as well as to have the case investigated.

Article 3

31. The new Act No. LXXXVI of 1993 on the entry, stay and immigration of Aliens to Hungary stipulates the legal guarantees regarding expulsion in full harmony with the Convention. According to article 32, paragraph 1, no alien shall be returned or expelled to a country where, for reasons of race or religion or social status or political belief, he/she would be subjected to fear of prosecution, as well as when there is a well-founded reason to believe that the expelled alien would be subjected to torture, inhuman or degrading treatment.

32. In the preamble of this Act, the National Assembly of Hungary stipulates that the enacting of these rules has been carried out in order to abide by the obligations in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other international instruments.

Article 4

33. See the relevant statistical data in Part III.

Article 5

34. During the reporting period, there was no change in the relevant regulations.

Article 6

35. The new Act on entry, stay and immigration of aliens to Hungary and Act No. CXXXIX of 1997 on asylum (annex 8) provide appropriate regulations for custody measures, in line with the provisions of the Convention. Article 36,

paragraph 1 of the Act stipulates that custody shall be carried out upon the initiative of the court, and it shall be ordered by a formal written decision (para. 2). The alien custody may be ordered for a period of up to five days and it may only be extended by the competent court until the alien leaves the country. If the duration of the custody exceeds 30 days, the court shall review monthly the necessity of maintaining custody (para. 4). To order the alien into custody more than six months (para. 5), the county (metropolitan) court has exclusive jurisdiction to act. Article 37 of the Act guarantees that the alien in custody shall be kept separate from those detained for criminal offences.

36. Furthermore, if requested (art. 38, para. 1) by the alien, or if it is mandatory under international agreement, the competent authority shall inform him or her, without delay, through the Ministry of Foreign Affairs, of the nearest appropriate diplomatic or consular representative of the State of which he/she is a national or, if he/she is a stateless person, the representative of the State where he/she usually resides. The competent authority (para. 2) shall act, as a temporary measure, without delay in placing under proper care of family members the alien taken into custody, who would remain otherwise unsupervised. As well, the authority shall secure his valuables.

Article 7

37. The Convention is directly enforceable in Hungary (see paragraph 11).

Article 8

38. During the reporting period, two relevant new legal regulations have been enacted in Hungary, Act No. XXXVIII of 1996 on mutual international judicial assistance in criminal affairs has reregulated, in a comprehensive manner, the system of international legal assistance, including the question of extradition. The other Act has already been referred to in article 7. All the new regulations are in full harmony with the requirements of the Convention. As reported earlier, Hungary has concluded a great number of bilateral judicial assistance agreements with different States (see Hungary's initial report, CAT/C/5/Add.9, paras. 22-24).

39. In the course of the reporting period Hungary has concluded further such agreements with the United States of America and Australia. These agreements are fully compatible with the provisions of the Convention.

Article 9

40. The new Act on Mutual International Judicial Assistance in Criminal Affairs guarantees the widest possible legal cooperation. There is a legal possibility, provided by the Act, for legal assistance according to international convention, based upon bilateral agreements as well as on the basis of reciprocity and even lack of reciprocity.

41. The basic guarantee is given by Act No. XXXVIII of 1996. The Minister of Justice, as well as the Chief Public Prosecutor, has the right to deny to carry out legal assistance if there is reason to believe that a legal

procedure, punishment or execution to be expected abroad would not be in harmony with the Hungarian Constitution or with the respective international human rights conventions.

42. During the reporting period, Hungary has concluded bilateral agreements for mutual judicial assistance in criminal affairs with the United States of America and Canada.

43. Furthermore, Hungary also ratified and promulgated the so-called European Conventions on mutual assistance in criminal affairs, on extradition and on the transfer of sentenced persons.

44. In connection with the issue of legal assistance, Hungary, by Act No. XXXIX of 1996, has promulgated the Statute of the International Tribunal established by the Security Council under Chapter VII of the Charter of the United Nations, the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia.

Article 10

45. The Hungarian legal system has been appropriately upgraded in the areas at issue and the relevant legal environment corresponds to United Nations norms. During the present phase, high priority is given to putting all these provisions into day-to-day practice. A long-term programme has been launched in Hungary with this purpose, especially in two fields: information for the relevant human rights guarantees and professional training.

46. As for basic information, it is noted that all international conventions to which Hungary is a party are promulgated in the Official Gazette, which is public and within easy reach for anybody. Appropriate publicity is also given by the media, as well as in the printed and electronic press. As regards the dissemination of the texts of all the human rights instruments, the role of the Hungarian Academy of Sciences, as well as the universities and high schools, is of paramount significance.

47. The Hungarian Centre on Human Rights, within the Academy of Sciences, deals among other things with the translation, publication and dissemination of the relevant documents, including not only the legal instruments but the publications of Hungarian and international experts as well. Furthermore, it also registers Hungarian legal practice relating to human rights and is involved in the preparation of curricula in the field of human rights.

48. The activities of different non-governmental organizations - television and radio round-table discussions, seminars, publications - also represent an important contribution to the promotion of awareness of human rights norms and standards by the public. For example, the Hungarian United Nations Association had so far issued nearly 20 publications on this issue.

49. A good example of Hungary's dissemination efforts is given by the above-mentioned visit of the European Committee for the Prevention of Torture (CPT). The Government has requested the publication of the full report of the

CPT, as well as its official follow-up comments and the related Government Resolution (No. 2351 of 22 November 1995) on the practical implementation of the recommendations and other findings of the CPT (annex 5).

50. A wide-ranging professional training programme was also worked out and launched for law enforcement personnel, both civil and military, as well as for medical personnel, public prosecutors, criminal detention and law enforcement officials, policemen as well as all others involved in the custody, interrogation or treatment of any individual subject to any form of arrest, detention or imprisonment.

51. In 1996, at all 11 professional training institutions supervised by the Minister of Interior, special basic, medium and upper-level education programmes were launched, where human rights norms of the United Nations and the Council of Europe are taught in a profound and global approach. The legal basis for these new training requirements is dealt with in Decree of the Minister of Interior, No. 38/1997 (VI.27), as well as the Decree of the Minister of Labour, No. 22/1997 (XII.30).

Article 11

52. A high priority is given to systematic control activities, with a view to preventing torture and similar forbidden activities. Under the latest amendment of the Hungarian Constitution (Act No. LIX of 1997), it is the fully independent organization led by the Chief Public Prosecutor, which has the task of supervising and controlling the relevant activities of the Hungarian authorities.

53. Following the visit of the CPT to Hungary, the Chief Public Prosecutor, in harmony with the recommendations formulated by the CPT, issued a circular (No. 2/1995/U.K. 11) which calls the attention of all public prosecutors to the strict and consequent implementation of the provisions of the relevant international conventions and of the domestic legal obligations prohibiting torture and other inhuman or degrading treatment or punishment. The circular requires a continuous obligation of all public prosecutors (civil and military) to visit regularly, at least once a month, all detention and penitentiary institutions (prisons, holding facilities). Furthermore, once a year, the prosecutor's offices shall work out a comprehensive report to the Chief Public Prosecutor with their fact-finding, disciplinary initiatives, and professional proposals for new arrangements.

54. The Ombudsman also has a special control mechanism, dealt with above (para. 6).

Article 12

55. The prompt and impartial investigations of the competent authorities represent already a continuous and effective day-to-day working practice in Hungary. The concrete results of all these investigations are analysed by the different statistical data for the reporting period in Part III of the present report.

Article 13

56. Recently, new legal guarantees have been worked out to ensure that any complainant or witness be protected against ill-treatment or intimidation. The new Act amending the Code on Criminal Procedure (Act No. XCII of 1994, article 3) assures the possibility for any complainant or witness of strictly confidential handling of all testimony, affidavits as well as facts proved by him/her during a legal procedure.

57. The Act on the Police (art. 21) as well as chapter VIII of the same Act on the obligations for data handling gives a similar guarantee. (See also Act No. LXIII of 1992 on the protection of personal data). The new Criminal Code created two additional legal guarantees for the defence of personal data interests, section 177/A of the Criminal Code on illegitimate data handling, and article 177/B on the misuse of special personal data.

Article 14

58. It is recalled that the Convention is a directly enforceable law in Hungary. Consequently, article 14, paragraph 1, ensures fair and adequate compensation for the victim and also for his dependants. During the reporting period, fundamental changes have taken place in Hungarian national regulations, too.

59. The new amendment of the Constitution in Chapter XII, on fundamental rights and duties (art. 55) stipulates: "Everyone shall have the right to liberty and security of being. No one shall be deprived of his liberty, except on such grounds and in accordance with such procedure, as are determined by law." Furthermore, anyone who is a victim of unlawful arrest or detention shall have the right to compensation.

60. The civil law regulations for material compensation are provided by the Hungarian Civil Code (arts. 339, 349 and 463). At the same time, detailed administrative procedural rights have been stipulated by Minister of Justice Decree No. 13/1996 (XII.23).

Article 15

61. Act No. XXVI of 1989 on the modification of criminal procedure (art. 60) provides that any statement which is established to have been made as a result of torture, or other legally forbidden pressure, shall not be invoked as evidence in any proceedings, except against a person accused of torture.

Article 16

62. As the Convention is a directly enforceable law in Hungary, article 16, paragraph 1, forms the guarantee. Furthermore, chapter IV of Hungary's Criminal Code on crimes related to the authority (arts. 225 to 228/A) is an example for its interpretation in national law.

63. In this connection, special attention has to be paid to articles 228 and 228/A. Article 228 on unlawful detention provides that the official person, who unlawfully deprives another person of his/her personal freedom,

commits a felony and shall be punishable with imprisonment of up to five years and, if the act causes grave consequences, up to eight years. Article 228/A on violation of freedom of association and assembly provides that the person who unlawfully impedes another person in the exercise of his/her right to association or assembly with violence or threats, commits a felony and shall be punishable with imprisonment of up to three years.

III. STATISTICS

64. As underlined in paragraph 15, the CPT, during its fact-finding visit to Hungary, heard no allegations of torture of persons held by the police establishments and no other evidence of torture was found at all.

65. A high priority was given to systematic control, formulated by the circular of the Chief Public Prosecutor (as cited in paragraph 49). It requires all public prosecutors (civil and military) to control at least once a month all the detention and penitentiary institutions. Every year, all the prosecutor's offices shall submit a comprehensive report to the Chief Public Prosecutor, which is summarized and published.

66. As for the reporting period, the statistical data published by the Chief Public Prosecutor show repeated physical ill-treatments inflicted by police on detained persons (forbidden under article 226 of the Hungarian Criminal Code).

67. Criminal procedures have been carried out against "official persons" under article 226 of the Criminal Code, as follows: in 1993, four cases against five persons; in 1994, three cases against three persons; in 1995, seven cases against 30 persons; in 1996, 17 cases against 24 persons; in 1997, seven cases against 17 persons.

List of annexes*

1. Report of the Hungarian Ombudsman for 1995-1996.

2. The Hungarian Constitution.

3. Act No. LIX of 1993 on the Ombudsman (Parliamentary Commissioner) for Human Rights.

4. Report of the Ombudsman for national and ethnic minorities.

5. Report to the Hungarian Government on the visit to Hungary carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 1 to 14 November 1994 and Comments of the Hungarian Government. Follow-up reports on the implementation of the recommendations contained in the CPT report.

6. Act No. IV of 1978 (as modified by Act No. XVII of 1993) on the Criminal Code.

7. Act No. XXXII of 1993 on the execution of criminal punishments and other criminal measures.

8. Act No. CXXXIX of 1997 on asylum.

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* The annexes are available for consultation in the files of the Office of the United Nations High Commissioner for Human Rights.